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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/729,347 | 12/05/2003 | Todd D. Wakefield | 03760.025/5142 P | 8264 |

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RADTKE, MARK A

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| ART UNIT | PAPER NUMBER |
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2165

DATE MAILED: 05/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/729,347 | Applicant(s) WAKEFIELD ET AL. | |
| | Examiner Mark A. Radtke | Art Unit 2165 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2004 and 05 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>3/8/04 & 1/7/05</u> | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____ |
|---|--|

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-32 of the instant application are provisionally rejected under the judicially created doctrine of double patenting over claims 1-16 of Patent No. 6,732,097 (Wakefield et al., U.S. Patent No. 6,732,097).

Claims 1-32 of the instant application are considered obvious over claims 1-16 of Wakefield et al.

"A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or anticipated by, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus). " ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

Claim Objections

3. Claim 1 is objected to because of the following informalities:

- a. As to claim 1, limitation (v), line 2, "attributes" may be changed to -- attribute--.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1 and 17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The final step of "producing a structured data element" is abstract and therefore intangible. It is not clear that this result is stored in memory or displayed to the user. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 15 and 31 recite the limitation "identified attributes" in line 2. There is insufficient antecedent basis for this limitation in the claim. "text records", "roles" and "attribute extractions" are "identified" in the independent claims. For the purposes of examination, Examiner will assume that "identified attributes" indicates "attribute

extractions". Examiner recommends changing "identified attributes" to --identified attribute extractions-- or --identified extractions--.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bauman et al. (U.S. Patent 5,412,756) in view of Budzinski (U.S. Patent 5,715,468).

As to claim 1, Bauman et al. teaches a system for providing a service to identify and structure free text databases (see Abstract), comprising:

a processing element (see column 8, lines 66-67);

one or more data access ports, said ports providing access to data by said processing element (see column 38, lines 1-9);

a set of one or more input devices readable by said processing element (See column 38, lines 1-9. Networking devices are input and output devices. Furthermore, all computers have input devices. See also column 6, lines 6-9.);

a storage device, said storage device containing instructions executable by said processing element to perform the functions of:

(v) identifying roles within the parsed text records, said identifying producing attribute extractions, each of said attribute extractions containing attribute information of the derived source text (see figure 11, Data Node and see column 44, lines 31-33 and lines 34-36, where “roles” is read on “hypotheses”);

(v) applying caseframes to the attribute extractions (see column 43, lines 59-65, where “caseframes” is read on “rules”), said applying caseframes producing a filtered set of attributes extractions (see figure 11, Hypothesis Node and see column 43, line 66 – column 44, line 6 where “filtered set of attributes extractions” is read on “conclusions” and see figure 10); and

(vi) producing a structured data element containing the filtered set of extractions (see figure 11, Malfunction Mode and see figure 10 and see Abstract).

Bauman et al. does not explicitly teach:

(i) reading an access reference through said input device set, the access reference referencing a customer's source of unstructured data, the unstructured data including free text;

(ii) accessing the source of unstructured data;

(iii) identifying text records within the free text;

(iv) linguistically parsing the identified text records.

Budzinski teaches a system for providing a service to identify and structure free text databases (see Abstract), comprising:

a storage device (see Abstract, line 1), said storage device containing instructions executable by said processing element to perform the functions of:

(i) reading an access reference through said input device set, the access reference referencing a customer's source of unstructured data, the unstructured data including free text (see figure 1, element 11 and see column 26, "Syntactic Processing Method");

(ii) accessing the source of unstructured data (see figure 1, element 11 and Abstract and column 26, "Syntactic Processing Method");

(iii) identifying text records within the free text (see figure 2, step 24, "Morphological Processing");

(iv) linguistically parsing the identified text records (see figure 2 and Abstract).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bauman et al. by the teaching of Budzinski because any knowledge source can be used as input to the invention of Bauman et al. and the output of Budzinski parses free text into a structured form (see Bauman et al., column 43, lines 1-25).

As to claims 2 and 18, Bauman et al., as modified, teaches wherein said instructions are further executable to perform the function of identifying domains of the filtered set of attributes extractions (see Bauman et al., figure 57 and column 14, lines 39-50 where "domain" is read on "context" and column 77, "COMPONENT-Context").

As to claims 3 and 19, Bauman et al., as modified, teaches wherein said instructions are further executable to perform the function of the assignment of domain roles (see Bauman et al., figure 57 and column 14, lines 39-50).

As to claims 4 and 20, Bauman et al., as modified, teaches wherein said instructions are further executable to perform the function of producing relation types (see Bauman et al., column 38, lines 57-60, "spatial and functional relationships" and see column 39, "The IS-A Hierarchy" and "The PART-OF Hierarchy").

As to claims 5 and 21, Bauman et al., as modified, teaches wherein said instructions are further executable to perform the function of coalescing the produced relation types (see Bauman et al., column 39, "The IS-A Hierarchy").

As to claims 6 and 22, Bauman et al., as modified, teaches wherein said instructions are further executable to perform the function of creating a new database containing the structured data element produced in said producing (see Bauman et al., column 76, "FILE-New").

As to claims 7 and 23, Bauman et al., as modified, teaches wherein the instructions are further executable to produce a new relational database containing the structured data element produced in said producing a structured data element (see Bauman et al., column 77, "COMPONENT-Hypothesis").

As to claims 8 and 24, Bauman et al., as modified, teaches wherein said instructions are further executable to perform the function of producing a file containing the structured data element produced in said producing a structured data element (see Bauman et al., column 76, "FILE-New").

As to claims 10 and 26, Bauman et al., as modified, teaches wherein the structured data element produced by the performance of said producing includes reference information to the original free text for construed data (see Bauman et al., figure 11, "Description").

As to claims 11 and 27, Bauman et al., as modified, teaches wherein the instructions are further executable to construct a library containing extracted attributes (see Bauman et al., column 79, lines 31-34).

As to claims 12 and 28, Bauman et al., as modified, teaches wherein the instructions are further executable to construct a library containing extracted relational facts (see Bauman et al., column 50, "Rule-Base Description File").

As to claims 13 and 29, Bauman et al., as modified, teaches wherein said instructions are further executable to perform the function of combining like relation types (see Bauman et al., column 39, "The IS-A Hierarchy").

As to claims 14 and 30, Bauman et al., as modified, teaches wherein said instructions are further executable to perform the function of combining like attributes (See Budzinski, step 14, "Dictionary Look Up". Synonyms are grouped).

As to claims 15 and 31, Bauman et al., as modified, teaches wherein said instructions are further executable to perform the function of coalescing the identified attributes (see Budzinski, step 14, "Dictionary Look Up").

As to claims 16 and 32, Bauman et al., as modified, teaches wherein said instructions are further executable to perform the function of coalescing identified relation types (see Bauman et al., column 39, "The IS-A Hierarchy").

As to claim 17, Bauman et al. teaches a method for providing a service to identify and structure free text databases (see Abstract), comprising the steps of:

For the remaining steps of this claim applicant(s) is/are directed to the remarks and discussions made in claim 1 above.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bauman et al. by the teaching of

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Budzinski because any knowledge source can be used as input to the invention of Bauman et al. and the output of Budzinski parses free text into a structured form (see Bauman et al., column 43, lines 1-25).

10. Claims 9 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bauman et al. in view of Budzinski as applied to claims 1 and 17 above, and further in view of Examiner's Official Notice.

As to claims 9 and 25, Bauman et al., as modified, does not expressly teach wherein the instructions are further executable to produce a file having a format containing the structured data element selected from the group of XML, character separated values, spreadsheet formats and file-based database structures.

However, Examiner takes Official Notice that the use of the elements of the group to store database information is conventional and well known.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to produce a file in one of several formats because Examiner takes Official Notice that the use of the elements of the group to store database information is conventional and well known (see XML Converter Standard Edition, available online at <http://rustemsoft.com/XMLConverter.htm>).

Conclusion

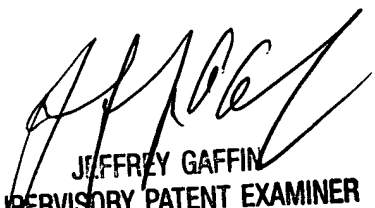
11. Any inquiry concerning this communication or earlier communications should be directed to the examiner, Mark A. Radtke. The examiner's telephone number is (571) 272-7163, and the examiner can normally be reached between 9 AM and 5 PM, Monday through Friday.

If attempts to contact the examiner are unsuccessful, the examiner's supervisor, Jeffrey Gaffin, can be reached at (571) 272-4146.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (800) 786-9199.

maxr

15 May 2006


JEFFREY GAFFIN
SUPERVISORY PATENT EXAMINER
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